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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,220	01/09/2006	Paul Dischamp	0579-1096	5135

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YOUNG & THOMPSON  
209 Madison Street  
Suite 500  
Alexandria, VA 22314

EXAMINER
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WALSH, DANIEL I

ART UNIT	PAPER NUMBER
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2887

NOTIFICATION DATE	DELIVERY MODE
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ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/540,220	<b>Applicant(s)</b> DISCHAMP ET AL.	
	<b>Examiner</b> DANIEL WALSH	<b>Art Unit</b> 2887	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 9-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 1-6, 9-10, and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shinzaki (US 20030005310).

Re claim 1, Shinzaki teaches the claimed limitations (FIG. 1 and paragraph [0153]) where a card is connected to a host station, has a clock to measure time, certifies a date (time) of receipt of a command from a host and produces data certifying the date for the host computer 400 (through interface 205). Though silent to a date (teaches time), the Examiner notes that date information along with timing is well known in the art and an obvious expedient in order to provide further information, such as is common with clocks/timing of electronic devices, for

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example (date information and time information being stored/represented as part of a timestamp/internal clock information), and hence certifying both time/date in the process.

Therefore, receiving information about date/time, from a clock/time measuring device, is an obvious expedient to provide clock related information (time and date), realizing that time/date are components useful and well know for time measurement/certification.

Re the amendment that recites that the time measuring supply a measurement of time when said entity is not supplied with electrical power, and re claim 8 that the power is electronic ,the Examiner notes that paragraph [0029] teaches a clock for calculating time, interpreted as a clock of the portable device. Therefore, the device has a time measuring means as part of it, and does not need to have external power applied/supplied to it for such means. The Examiner has broadly interpreted the limitation to mean that the power is supplied to the device (from outside the device). The Examiner notes that the entity, as taught by the prior art, has a clock/CPU, but that the entity is not supplied electrical power, because it appears to have electrical power, and therefore does not need to be supplied power, from an external source. Further, specifying time in terms of duration, a date, a clock, timing, etc. are all obvious variants as ways to measure time, well within the ordinary skill in the art.

Re claim 2, the limitations have been discussed above.

Re claim 3, the section 307 of the card certifies the data/time from outside.

Re claim 4, there is a predetermined value (time) for a limit (paragraph [1054]).

Re claim 5, though silent to synchronization, the Examiner notes that in instances of communication between two devices with clock data, synchronization is an obvious expedient to

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provide updated information, especially as the specifics of the synchronization are not claimed.

Merely handling/processing the received data can broadly be interpreted as synchronization.

Re claim 6, authentication is interpreted as part of the certifying process.

Re claim 9, the clock (304) meets the limitations.

Re claim 10, though silent to comparing dates, as discussed above, the use of dates in addition to time is an obvious expedient for more detailed information (part of conventional time stamping of internal clocks). Alternatively, comparing two times can be interpreted to meet the claim limitations as the Examiner notes it is unclear whether time or date is being compared. Shinzaki teaches calculating current time (paragraph [0029]) and comparison to an elapsed time, interpreted as two times/dates.

Re claims 18-21, the limitations have been discussed above as a microchip/microcircuit card/circuit card/smartcard. Though silent to a tag, the card is broadly interpreted as functionally equivalent to an electronic tag, such as an RFID tag/smartcard. A date/duration/time is all obvious expedients for certifying by time/date, based upon how time is calculated/determined/clocked. Therefore specifying times in terms of dates, times, durations, etc. are obvious variants as means to measure certain times.

2. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shinzaki as discussed above, in view of Kim (US 20030075609).

The teachings of Shinzaki have been discussed above.

Shinzaki is silent to synchronization.

Kim teaches such limitations (paragraph [0034]).

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At the time the invention was made, it would have been obvious to combine the teachings of Shinzaki with those of Kim in order to provide updated information (synchronized) as is conventional in the art with electronic communication involving times.

3. Claims 11-17 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shinzaki as discussed above, in view of Horvat et al. (US 7036018).

The teachings of Shinzaki have been discussed above.

Shinzaki is silent to the subsystem as claimed (claim 11), the residual charge measuring time (claim 12), MOS technology and SiO<sub>2</sub> dielectric (claim 13), FET and insulating layer characteristics (re claim 14), thickness (claim 15), two subsystems (claim 16), and software (re claim 17).

Horvat et al. teaches such limitations (see col 6, col 6 lines 4-38, col 6 lines 21-67, col 6 lines 39-67, col 7 lines 1-40). The Examiner notes that selecting a particular thickness of a capacitive component is a matter of design variation based on system constraints, and therefore is an obvious expedient as the general parameters are taught and therefore choosing an optimum value/range for a desired result involves only routine skill in the art. Column 6 also teaches that the system has software controlled by the processor which is needed to operate the card.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Shinzaki with those of Horvat et al.

One would have been motivated to do this in order to have an alternative way for the card to carry a charge after being disconnected and also providing more security.

Re newly added claims 22-24, the Examiner notes that the capacitor of Horvat is interpreted as the claimed "cell". Data is certified by comparing an elapsed/current time, to that

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starting time. The semiconductor memory/NVM/ROM is interpreted as the memory storing time information.

4. Claims 1, 2, 4, 5, 9, 10-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvat et al. (US 7036018).

Horvat et al. teaches a integrated circuit card containing means for measuring a time and certifying a date of receipt of a command from a host station as discussed above, wherein the control device is able to determine a number of executions per unit time which is able to produce data certifying the date (whether or not the commands are acceptable to be executed). As discussed above, power is not required by an external power supply. Though silent to an actual date, the Examiner notes that as timing is taught, a date is an obvious matter of design variation to produce additional timing data, such as is conventional as being provided with clock/timing data.

Re claim 2, the Examiner has interpreted that the time is certified by counting executions per unit time.

Re claim 4, Horvat et al. teaches (re claim 1) that certification of command received in a given time period/before a limit date.

Re claim 5, as the claim merely recites synchronization and not specifics, by receiving and processing a signal, synchronization is interpreted as occurring.

Re claim 9, the time measuring is residual charge of a capacitor as discussed above.

Re claim 10, as the actual number of executions per unit time is compared to a threshold, two dates/times are interpreted as being compared.

Re claims 11-17, the limitations have been discussed above.

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Re claim 18, the card is portable.

Re claim 19, a card is taught above.

Re claim 20, the use of a card as a tag is a matter of intended use. Further, the Examiner notes that an IC card can be broadly interpreted as a tag.

Re claim 21, a duration/time has been discussed above.

### ***Response to Arguments***

5. Applicant's arguments filed have been fully considered but they are not persuasive, as explained in the rejection above. The Examiner notes that time, whether it be time, duration, dates, etc. are all obvious expedients as means to measure timing, well within the ordinary skill in the art. Further, the term "secure" is sufficiently broad to be read upon by the prior art, as the claims do not recite what is meant by secure (structurally secure, secure in concept/design, secure in terms of electronic data security, etc).

### ***Additional Remarks***

The Examiner notes that the art to Abgrall (US 20060129849), La Rosa (WO2008012463), Sureaud (US 7431211) also teach time measuring through discharge of the capacitor, including in cards, and the Examiner suggests the Applicant review such teachings before filing any possible claim amendments to related subject matter in order to expedite prosecution.

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Further, the Examiner notes that the limitations regarding measuring time and then certifying a date, is still unclear to the Examiner. Is an actual date (day/month/year information certified/provided, or is it information part of conventional clock/timing information that is certified/provided.)

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (See PTO-892).

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL WALSH whose telephone number is (571)272-2409.

The examiner can normally be reached on M-F 9am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Paik can be reached on 571-272-2404. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DANIEL WALSH/  
Primary Examiner, Art Unit 2887